

Act No. 90

Public Acts of 2004

Approved by the Governor

April 22, 2004

Filed with the Secretary of State

April 22, 2004

EFFECTIVE DATE: April 22, 2004

STATE OF MICHIGAN

92ND LEGISLATURE

REGULAR SESSION OF 2004

Introduced by Senator Leland

ENROLLED SENATE BILL No. 560

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 3101 (MCL 324.3101), as amended by 2001 PA 114, and by adding sections 3122, 3123, and 3124.

The People of the State of Michigan enact:

Sec. 3101. As used in this part:

(a) "Aquatic nuisance species" means a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters.

(b) "Ballast water" means water and associated solids taken on board a vessel to control or maintain trim, draft, stability, or stresses on the vessel, without regard to the manner in which it is carried.

(c) "Ballast water treatment method" means a method of treating ballast water and sediments to remove or destroy living biological organisms through 1 or more of the following:

(i) Filtration.

(ii) The application of biocides or ultraviolet light.

- (iii) Thermal methods.
- (iv) Other treatment techniques approved by the department.
- (d) "Department" means the department of environmental quality.
- (e) "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the United States department of labor, bureau of labor statistics.
- (f) "Great Lakes" means the Great Lakes and their connecting waters, including Lake St. Clair.
- (g) "Group 1 facility" means a facility whose discharge is described by R323.2218 of the Michigan administrative code.
- (h) "Group 2 facility" means a facility whose discharge is described by R323.2210(y), 323.2215, or 323.2216 of the Michigan administrative code.
- (i) "Group 3 facility" means a facility whose discharge is described by R323.2211 or 323.2213 of the Michigan administrative code.
- (j) "Local unit" means a county, city, village, or township or an agency or instrumentality of any of these entities.
- (k) "Municipality" means this state, a county, city, village, or township, or an agency or instrumentality of any of these entities.
- (l) "Nonoceangoing vessel" means a vessel that is not an oceangoing vessel.
- (m) "Oceangoing vessel" means a vessel that operates on the Great Lakes or the St. Lawrence waterway after operating in waters outside of the Great Lakes or the St. Lawrence waterway.
- (n) "Sediments" means any matter settled out of ballast water within a vessel.
- (o) "Sewage sludge" means sewage sludge generated in the treatment of domestic sewage, other than only septage or industrial waste.
- (p) "Sewage sludge derivative" means a product for land application derived from sewage sludge that does not include solid waste or other waste regulated under this act.
- (q) "Sewage sludge generator" means a person who generates sewage sludge that is applied to land.
- (r) "Sewage sludge distributor" means a person who applies, markets, or distributes, except at retail, a sewage sludge derivative.
- (s) "St. Lawrence waterway" means the St. Lawrence river, the St. Lawrence seaway, and the gulf of St. Lawrence.
- (t) "Waters of the state" means groundwaters, lakes, rivers, and streams and all other watercourses and waters, including the Great Lakes, within the jurisdiction of this state.

Sec. 3122. (1) Until October 1, 2007, the department may levy and collect an annual groundwater discharge permit fee from facilities that discharge wastewater to the ground or groundwater of this state pursuant to section 3112. The fee shall be as follows:

- (a) For a group 1 facility, \$3,650.00.
- (b) For a group 2 facility or a municipality of 1,000 or fewer residents, \$1,500.00.
- (c) For a group 3 facility, \$200.00.

(2) Within 180 days after receipt of a complete application, the department shall either grant or deny a permit, unless the applicant and the department agree to extend this time period. If the department fails to make a decision on an application within the time period specified or agreed to under this subsection, the applicant shall receive a 15% annual discount on an annual groundwater discharge permit fee for a permit issued based upon that application. This subsection applies to permit applications received beginning October 1, 2005.

(3) If the person required to pay the annual groundwater discharge permit fee under subsection (1) is a municipality, the municipality may pass on the annual groundwater discharge permit fee to each user of the municipal facility.

(4) As used in this section, "group 1 facility", "group 2 facility", and "group 3 facility" do not include a municipality with a population of 1,000 or fewer residents.

Sec. 3123. (1) The department shall send invoices for the groundwater discharge permit fees under section 3122 to all permit holders by January 15 of each year. Fees will be charged for all facilities authorized as of December 15 of each calendar year. Payment shall be postmarked no later than March 1 of each year. Failure by the department to send an invoice by the deadline, or failure of a person to receive an invoice, does not relieve that person of his or her obligation to pay the annual groundwater discharge permit fee. If the department does not meet the January 15 deadline for sending invoices, the annual groundwater discharge permit fee is due not later than 45 days after receiving an invoice. The department shall forward money collected pursuant to this section to the state treasurer for deposit into the groundwater discharge permit fund established under section 3124.

(2) The department shall assess a penalty on all fee payments submitted under this section after the due date. The penalty shall be an amount equal to 0.75% of the payment due for each month or portion of a month the payment remains past due. Failure to timely pay a fee imposed by this section is a violation of this part and is cause for revocation of a permit issued under this part and may subject the discharger to additional penalties pursuant to section 3115.

(3) The attorney general may bring an action for the collection of the groundwater discharge permit fees imposed under this section.

Sec. 3124. (1) The groundwater discharge permit fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the groundwater discharge permit fund. The state treasurer shall direct the investment of the groundwater discharge permit fund.

(2) Money in the groundwater discharge permit fund at the close of the fiscal year shall remain in the groundwater discharge permit fund and shall not lapse to the general fund.

(3) The state treasurer shall credit to the groundwater discharge permit fund the interest and earnings from groundwater discharge permit fund investments.

(4) The department shall expend money from the groundwater discharge permit fund, upon appropriation, only to implement the department's groundwater discharge program under this part. However, in any state fiscal year, the department shall not expend more than \$2,000,000.00 of money from the fund.

(5) By March 1 annually, the department shall prepare and submit to the governor, the legislature, the chair of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the activities during the previous fiscal year in administering the department's groundwater discharge program that were funded by the groundwater discharge permit fund. This report shall include, at a minimum, all of the following as they relate to the department:

- (a) The number of full-time equated positions performing groundwater permitting, compliance, and enforcement activities.
- (b) The number of applications received by the department, reported as the number of applications determined to be administratively incomplete and the number determined to be administratively complete.
- (c) The number of applications for groundwater permits determined to be administratively complete for which a final action was taken by the department. The number of final actions shall be reported as the number of applications approved, the number of applications denied, and the number of applications withdrawn by the applicant.
- (d) The percentage and number of applications determined to be administratively complete for which a final decision was made within the statutory time frame.
- (e) The number of inspections conducted at groundwater facilities.
- (f) The number of violation letters sent.
- (g) The number of contested case hearings and civil actions initiated and completed, the number of voluntary consent orders and administrative orders entered or issued, and the amount of fines and penalties collected through such actions or orders.
- (h) For each enforcement action that includes a penalty, a description of what corrective actions were required by the enforcement action.
- (i) The number of groundwater complaints received, investigated, resolved, and not resolved by the department.
- (j) The amount of revenue in the groundwater discharge permit fund at the end of the fiscal year.

This act is ordered to take immediate effect.

Secretary of the Senate

Clerk of the House of Representatives

Approved

Governor